

MINUTES
MALIBU CITY COUNCIL
REGULAR MEETING
FEBRUARY 24, 2003
HUGHES AUDITORIUM
6:30 P.M.

CALL TO ORDER

Mayor Jennings called the meeting to order at 6:30 p.m.

ROLL CALL

The following persons were recorded in attendance by the Recording Secretary:

PRESENT: Mayor Jeffrey Jennings, Mayor Pro Tem Ken Kearsley, Councilmembers Sharon Barovsky and Andrew Stern.

ABSENT: Councilmember Joan House

ALSO PRESENT: Katie Lichtig, City Manager; Christi Hogin, City Attorney; Drew Purvis, Planning Director; and Lisa Pope, City Clerk

FLAG SALUTE

Jack Corrodi led the Pledge of Allegiance.

CLOSED SESSION REPORT

Public Comment on Closed Session Items

None.

City Attorney Hogin reported that the Council met in closed session at 5:00 p.m. to discuss the following items:

Existing litigation per Government Code Section 54956.9 (a):

1. Cher v. City of Malibu
Los Angeles County Superior Court Case No. SS10632
2. Chicksands Properties LTD. v. City of Malibu et al.
Los Angeles County Superior Court Case No. BS072081
3. City of Malibu v. California Coastal Commission (Streisand Center Coastal Permit)
Los Angeles County Superior Court Case No. BC230410
4. City of Malibu v. California Coastal Commission / TLC / Liebig (Referendum)
Los Angeles County Superior Court Case No. SS011355
5. City of Malibu v. California Coastal Commission (AB988 / LCP)
Los Angeles County Superior Court Case No. SC074641
Related cases (city named as a party in interest):

- a. Rick Appel v. California Coastal Commission
Case No. SC074658
- b. Ralph Herzig v. California Coastal Commission
Case No. SS011382
- c. Land Use Preservation v. California Coastal Commission
Case No. SS011388
- d. Riverview Farm Associates v. California Coastal Commission
Case No. SS011383
- e. Brian Sweeney v. California Coastal Commission
Case No. SS011387
- f. Trancas-PCH v. California Coastal Commission
Case No. SC074640
- g. Tuna Ridge v. California Coastal Commission
Case No. SC011381
- h. Land Use Preservation Defense Fund v. California Coastal Commission
Los Angeles County Superior Court Case No. SS011388
6. City of Malibu, et al. v. County of Ventura, et al. (Ahmanson Ranch)
Ventura County Superior Court Case No. CIV 216938
7. City of Malibu / Geffen v. Access for All / Coastal Commission et al
Los Angeles County Superior Court Case No. BC277034
8. City of Malibu v. Santa Monica Mountains Conservancy (Streisand Center)
Ventura County Superior Court Case No. CIV193900
9. United States of America ex rel. Darian v. Accent Builders inc. et al.
United States District Court Case No. 00-10255-FMC(JWJx)
10. Keach v. City of Malibu
Los Angeles County Superior Court Case No. SS009723
11. Malibu Township Council v. City of Malibu II (28-car garage)
Los Angeles County Superior Court Case No. BS079965
12. Marine Forest Society v. California Coastal Commission Case No. 00AS00567
(Sacramento Superior Court) (Amicus)
13. Rubens v. City of Malibu
Los Angeles County Superior Court Case No. SC060331
14. Sprint v. City of Malibu et al
United States District Court Case No. SACV02660 DOC (MLGx)
15. Sweeney et al v. California Coastal Commission (LCP/City is Real Party in Interest)
Los Angeles County Superior Court Case No. SS011387
16. Taxpayers for Livable Communities; Jay Liebig v. City of Malibu
Los Angeles County Superior Court Case No. BC258432
17. Taxpayers for Livable Communities; Jay Liebig II v. City of Malibu
Los Angeles County Superior Court Case No. BS0735585
18. Taxpayers for Livable Communities, Povah, et al. v. City of Malibu
Los Angeles County Superior Court Case No. BS072794
19. City of Arcadia, et al. v. Regional Water Quality Board, et al.
Los Angeles County Superior Court Case Nos. BS080807, BS080548, SO80753,
BS080758, BS080791

20. Trancas PCH v. City of Malibu
Los Angeles County Superior Court Case No. SC075668

Conference With Legal Counsel – Anticipated Litigation pursuant to Government Code Section 54956.9(b):

21. Number of Cases: 2

Real Estate negotiation matters pursuant to Government Code Section 54956.8:

22. Property APN: 4458-018-002, 018, 019
City Negotiator: City Manager Lichtig or designee
Property Negotiator: Roy E. Crummer
23. Property APN: 4458-021-005 and 4458-022-012
City Negotiator: City Manager Lichtig or designee
Property Negotiator: Tom Fitzpatrick

Personnel Matters pursuant to Government Code Section 54957:

24. Public Employee Performance Evaluation
Title: City Manager

City Attorney Hogin reported that the Council met in Closed Session at 5:00 p.m. She stated the Council discussed several but not all items listed on the Closed Session agenda and took no reportable action.

APPROVAL OF AGENDA

MOTION

Mayor Pro Tem Kearsley moved and Mayor Jennings seconded a motion to approve the agenda.

AMENDMENT

Councilmember Stern moved and Councilmember Barovsky seconded a motion to amend the main motion to continue Item 5.A. to the next regular meeting.

Councilmember Stern explained that he had asked whether the Building Official and Wastewater Advisory Committee had reviewed the matter. Planning Director Purvis explained that the Building Official had not reviewed the draft. He indicated it would be appropriate to continue the item to the next meeting.

Norm Haynie explained that the Wastewater Advisory Committee meets the third Thursday of each month. He stated he was unsure if he would be able to obtain a quorum prior to its next regular meeting. He requested direction from the City Council to call a special meeting.

City Attorney Hogin suggested continuing the item to March 24, 2003.

FRIENDLY AMENDMENT

Mayor Pro Tem Kearsley suggested amending the motion to continue Item 5.A. to March 24, 2003. The maker and seconder of the motion accepted the amendment.

The amendment carried 4-0, Councilmember House absent.

The main motion as amended carried 4-0, Councilmember House absent.

REPORT ON POSTING OF AGENDA

City Clerk Pope reported that the agenda for the meeting was posted on February 14, 2003, with the amended agenda posted February 21, 2003.

ITEM 1 CEREMONIAL/PRESENTATIONS

None.

ITEM 2A. PUBLIC COMMENTS

Douglas O'Brien, Parks and Recreation Commission, addressed the Council regarding the Malibu Bay Company Development Agreement. He presented a letter from the Parks and Recreation Commission urging support of the MBC Development Agreement and requesting the Parks and Recreation Commission be allowed to hold a series of public workshops to clarify the facilities to be provided in the agreement.

John Mazza discussed the Malibu Pier, including development of a surf museum.

Bruce Darian addressed the Council regarding construction of the Malibu Pier and the City's involvement.

B. COUNCIL COMMENTS

Mayor Pro Tem Kearsley stated he looked forward to the surfing museum. He discussed 101st Airborne and proposed a letter writing campaign.

Mayor Jennings discussed Mr. O'Brien's request for the Parks and Recreation Commission to receive Council direction to hold public workshops. City Attorney Hogin explained that the Commission could hold workshops but those workshops should be included in the Council's overall schedule for the project. She suggested the Council direct staff to bring back an item at the Quarterly City Council meeting to discuss required staffing and the overall MBC Development Agreement schedule.

Mayor Jennings stated he would support the Parks and Recreation Commission holding public workshops but did not want the schedule impacted.

City Manager Lichtig discussed time constraints and staffing.

Councilmember Barovsky expressed concern about the Parks and Recreation Commission taking an advocacy role.

In response to Councilmember Stern, Mr. O'Brien explained that the purpose was to develop a base plan as to what facilities could be placed on the Point Dume facility.

MOTION

Councilmember Barovsky moved and Mayor Pro Tem Kearsley seconded a motion to place discussion on the next quarterly agenda regarding the Parks and Recreation Commission holding workshops on the MBC Development Agreement. The motion carried 4-0, Councilmember House absent.

Mayor Pro Tem Kearsley requested the Council or WACO begin discussion of tertiary treatment plants and the possibility of an ordinance.

CONSENSUS

By consensus, the Council directed staff to bring back discussion of a possible ordinance on wastewater treatment at the Quarterly City Council meeting.

ITEM 3 CONSENT CALENDAR

Item Nos. 3.B.4., 3.B.5. and 3.B.6. were pulled by the public.

MOTION

Councilmember Barovsky moved and Mayor Pro Tem Kearsley seconded a motion to approve Item Nos. 3.A.1, 3.B.1, 3.B.2, and 3.B.3. The motion carried 4-0, Councilmember House absent; Mayor Jennings dissenting on Item No. 3.A.1.; and Councilmember Stern abstaining from Item No. 3.A.1.

The Consent Calendar consisted of the following items:

A. Previously Discussed Items

1. Appeal No. 02-006 – An Appeal of the Planning Commission's Resolution No. 02-17 Conditionally Approving Plot Plan Review No. 00-129 and Site Plan Review No. 00-083 for the Construction of a New Two-Story Single-Family Bluff-Top Residence Above the Base 18-Feet in Height - Appellant: Patt Healy and/or Malibu Coalition for Slow Growth; Applicant: Barsocchini & Associates; Owner: Arthur and Kimberly Silver; Location: 24950 Pacific Coast Highway (Continued from January 27, 2003)
Staff recommendation: Adopt Resolution No. 02-38 approving Plot Plan Review No. 00-129 and Site Plan Review No. 00-083 for a new, two-story single-family bluff top residence.

B. New Items

1. Waive further reading
Staff recommendation: After the City Attorney has read the title, waive full reading of ordinances considered on this agenda for introduction on first reading and/or second reading and adoption.
2. Approve Warrants
Staff recommendation: To allow and approve warrant demand numbers 21268 through 21370 listed on the register from the General Fund and direct the City Treasurer to pay out the funds to each of the claimants listed in Warrant Register No. 278 in the amount of the warrant appearing opposite their names, for the purposes stated on the respective demands, including payroll checks, in a total amount of \$348,243.85. ADP payroll voucher numbers 1761592 – 1761611 were issued in the amount of \$108,231.03.
3. Re-affirm the State of Local Emergency Declared by the Director of Emergency Services on January 13, 2003 relating to the Pacific (Trancas area) Fire
Staff recommendation: Re-affirm the State of Local Emergency by minute order.

The following items were pulled from the Consent Calendar for individual consideration:

3.B.4. Denial of Claim for Damages filed by Marc Stanley Hunter

Staff recommendation: Deny the claim filed by Toby Michael Lankford.

Ryan Embree stated the street sign at Topanga Canyon Boulevard had City of Malibu printed on it. He urged the City to call Caltrans to change the sign.

City Manager Lichtig indicated Caltrans would be asked once again to change the sign. She indicated the accident associated with this claim occurred on Old Topanga Boulevard.

MOTION

Councilmember Stern moved and Mayor Pro Tem Kearsley seconded a motion to deny the claim filed by Toby Michael Lankford. The motion carried 4-0, Councilmember House absent.

3.B.5. Solid Waste Solutions Contract Amendment

Staff recommendation: Authorize an amendment to the contract with Solid Waste Solutions to increase the scope of work and contract amounts as follows:

- 1) Additional \$8,000 per year for increased level of effort to achieve the maximum solid waste diversion rate;
- 2) Additional \$8,000 per year to provide commercial business inspection program to increase commercial recycling and to assure National Pollutant Discharge (NPDES) compliance; and
- 3) Appropriate sixteen thousand dollars (\$16,000) from Solid Waste Fund reserves.

Bruce Darian discussed the \$8000 allocated for NPDES permits. He discussed litigation related to the Pier construction and alleged the City's involvement in discharge of toxic chemicals to the surf area.

In response to Mayor Pro Tem Kearsley, Ms. Nilsson stated the City had obtained a 46% diversion rate for solid waste diverted from the landfill. Mayor Pro Tem Kearsley asked how that compared to other cities. Ms. Nilsson stated the City was one of 80 cities meeting the 50% diversion rate. Mayor Pro Tem Kearsley congratulated SWS and citizens of the City for recycling. He asked if there was any application of Mr. Darian's comments on solid waste inspections. Ms. Nilsson explained the carry over between solid waste inspections and NPDES.

Councilmember Barovsky stated she was voting in favor of staff recommendation due to the effectiveness on recycling.

MOTION

Mayor Pro Tem Kearsley moved and Councilmember Barovsky seconded a motion to authorize an amendment to the contract with Solid Waste Solutions to increase the scope of work and contract amounts as follows: 1) Additional \$8,000 per year for increased level of effort to achieve the maximum solid waste diversion rate; 2) Additional \$8,000 per year to provide commercial business inspection program to increase commercial recycling and to assure National Pollutant Discharge (NPDES) compliance; and 3) Appropriate sixteen thousand dollars (\$16,000) from Solid Waste Fund reserves. The motion carried 4-0, Councilmember House absent.

3.B.6. Resolution Regarding Military Action Against Iraq

Staff recommendation: Consider whether to adopt Resolution No. 03-10 urging the United States to work with the United Nations and allies of the United States to find and implement a peaceful and diplomatic solution before engaging a pre-emptive war with Iraq.

Ronn Hayes indicated support for the City of Malibu passing a resolution for peace not war. He encouraged the Council to vote for the resolution.

Rick Holben urged the Council to pass a resolution supporting a peace resolution. He urged inclusion of language supporting and thanking the men and women who serve the country.

Henry Pollard addressed the Council in support of adopting a resolution opposing war in Iraq. He expressed concern regarding terrorist attacks.

Jack Corrodi disagreed with the previous speakers. He discussed the terrorist attacks on September 11, 2001. He urged the Council to vote no on the resolution.

Leslie Schwarz provided a letter signed by 93 residents encouraging the Council to vote for a peace resolution.

Mona Loo encouraged the Council to vote in favor of the peace resolution.

Ted Vaill presented pros and cons concerning America's war against Iraq. He urged the Council to support the resolution.

MOTION

Councilmember Barovsky moved and Mayor Pro Tem Kearsley seconded a motion to adopt Resolution No. 03-10 urging the United States to work with the United Nations and allies of the United States to find and implement a peaceful and diplomatic solution before engaging a pre-emptive war with Iraq.

Mayor Pro Tem Kearsley indicated support for the resolution.

Councilmember Stern read the proposed resolution. He stressed that the City of Malibu supports its military men and women.

Mayor Jennings discussed his dilemma in deciding how to vote on the resolution.

The motion carried 4-0, Councilmember House absent.

ITEM 4 ORDINANCES AND PUBLIC HEARINGS

None.

ITEM 5 OLD BUSINESS

- A. Comprehensive Local Coastal Program (LCP) Application – Review of Public Works Provisions
Staff recommendation: Consider potential modifications to the September 2002 LCP and provide direction to the consultant for preparation of the LCP application.

Upon approval of the agenda, this item was continued to March 24, 2003.

ITEM 6 NEW BUSINESS

None.

ITEM 7 COUNCIL ITEMS

- A. Pier Concessionaire Committee

Proposals for the pier concession were due to California State Parks on February 3, 2003. A Pier Concessionaire Committee has been created to assist in the selection of a pier concessionaire. This item allows Council the opportunity to appoint one individual to serve as the City's representative on this committee. Staff recommendation: Appoint one individual to serve as the City of Malibu representative on the Malibu Pier Concessionaire Committee.

City Manager Lichtig presented the staff report.

Councilmember Barovsky indicated Councilmember House was interested in serving on the committee.

MOTION

Councilmember Barovsky moved and Mayor Pro Tem Kearsley seconded a motion to appointed Councilmember House to serve as the City of Malibu representative on the Malibu Pier Concessionaire Committee with City Manager Lichtig or her designee as the alternate. The motion carried 4-0, Councilmember House absent.

ADJOURN At 7:31 p.m., Councilmember Stern moved and Mayor Pro Tem Kearsley seconded a motion to adjourn. The motion carried 4-0, Councilmember House absent.

Approved and adopted by the City Council of the City of Malibu
on March 10, 2003.

JEFFREY D. JENNINGS, Mayor

ATTEST:

LISA POPE, City Clerk
(seal)